

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

DANIEL ALEJANDRO LOPEZ,

Defendant.

CR 13-00008-GF-BMM-JTJ

FINDINGS AND
RECOMMENDATIONS

I. Synopsis

Defendant Daniel Alejandro Lopez (Lopez) has been accused of violating conditions of his supervised release. (Docs. 88 and 97). Lopez admitted the alleged violations, as amended. Lopez's supervised release should be revoked. Lopez should be sentenced to custody for 1 year and 1 day with no term of supervised release to follow. The Court further recommends that Lopez serve his term of incarceration at FCI Terminal Island.

II. Status

Lopez pled guilty on April 2, 2013, to the offense of Conspiracy to Possess with Intent to Distribute Methamphetamine, in violation of 21 U.S.C. § 846 as charged in Count I of the Superseding Indictment. (Doc. 49). Lopez was sentenced

to 144 months of custody, followed by 5 years of supervised release. (Doc. 56). Lopez's current term of supervised release began on January 19, 2024.

Petition

On October 16, 2024, the United States Probation Office filed a Petition requesting that the Court revoke Lopez's supervised release. (Doc. 88). The Petition alleged Lopez violated conditions of his supervised release by: (1) failing to report for substance abuse treatment on February 8, 2024, and October 9, 2024; (2) failing to submit a random urine test on April 17, 2024, April 23, 2024, May 15, 2024, and October 9, 2024; (3) using methamphetamine on April 20, 2024, September 23, 2024, and October 9, 2024; (4) failing to advise his probation officer of a change in his residence during April and May of 2024; (5) failing to report as directed on May 16, 2024; and (6) using alcohol on September 23, 2024, and October 9, 2024.

Initial Appearance

Lopez appeared before Magistrate Judge Timothy J. Cavan on January 13, 2025. Lopez stated that he had read the Petition and that he understood the allegations against him. Lopez waived his right to a preliminary hearing. The Court scheduled a revocation hearing before this Court for January 21, 2025.

Amended Petition

On January 17, 2025, the United States Probation Office filed an Amended Petition requesting that the Court revoke Lopez's supervised release. (Doc. 97). The

Amended Petition alleged Lopez violated conditions of his supervised release by the added violation of: (7) absconding from supervision as of October 16, 2024.

Second Initial Appearance

Lopez appeared before the Court on January 21, 2025. Lopez was represented by counsel. Lopez requested a one-week continuance. The Court re-set the hearing for January 28, 2025, which was subsequently re-scheduled for January 30, 2025.

Third Initial Appearance

Lopez appeared before the Court on January 30, 2025. Lopez stated that he had read the Amended Petition and that he understood the allegations against him. Lopez waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned. The Government then moved to strike some of the allegations set forth in the Amended Petition advising the Court that such allegations had previously been dismissed. (Doc. 87). Specifically, the Government moved to o strike: the portion of allegation 1 for failing to report for substance abuse treatment on February 8, 2024; the portion of allegation 2 for failing to submit a random urine test on April 17, 2024, April 23, 2024, and May 15, 2024; the portion of allegation 3 for using methamphetamine on April 20, 2024; and allegations 4 and 5 in their entirety. The Court granted the motion.

Revocation hearing

Lopez appeared before the Court on January 30, 2025. Lopez admitted that he had violated the conditions of supervised release as set forth in the Amended Petition by: (1) failing to report for substance abuse treatment on October 9, 2024; (2) failing to submit a random urine test on October 9, 2024; (3) using methamphetamine on September 23, 2024, and October 9, 2024; (6) using alcohol on September 23, 2024, and October 9, 2024; and (7) absconding from supervision as of October 16, 2024. The Court determined that Lopez's admissions to violations 1, 2, 3, as amended, and to violations 6 and 7 are serious and warrant revocation of his supervised release.

Sentencing hearing

Lopez appeared before the Court on January 30, 2025. Lopez's violation is a Grade C. His criminal history category is III. Lopez's underlying offense is a Class A felony. Lopez could be incarcerated for no more than 60 months. Lopez could be ordered to remain on supervised release for 60 months less any custody time. The United States Sentencing Guidelines call for a term of custody of 5 to 11 months.

III. Analysis

Lopez's supervised release should be revoked. Lopez should be sentenced to custody for 1 year and one day, with no term of supervised release to follow. The

Court further recommends that Lopez serve his term of incarceration at FCI Terminal Island. This sentence is sufficient but not greater than necessary.

IV. Conclusion

The Court informed Lopez that the above sentence would be recommended to the Chief United States District Judge Brian Morris. The Court also informed Lopez of his right to object to these Findings and Recommendations within 14 days of this issuance. The Court explained to Lopez that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. Lopez waived his right to appeal and to allocute before Judge Morris.

The Court **FINDS:**

That DANIEL ALEJANDRO LOPEZ has violated the conditions of his supervised release by: (1) failing to report for substance abuse treatment on October 9, 2024; (2) failing to submit a random urine test on October 9, 2024; (3) using methamphetamine on September 23, 2024, and October 9, 2024; (6) using alcohol on September 23, 2024, and October 9, 2024; and (7) absconding from supervision as of October 16, 2024.

The Court **RECOMMENDS:**

That the District Court revoke Lopez's supervised release and sentence Lopez to custody for 1 year and 1 day, with no term of supervised release to follow. The Court further recommends that Lopez serve his term of incarceration at FCI Terminal Island.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO
OBJECT**

The parties may serve and file a written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge and may waive the right to appear and allocute before a district court judge.

DATED this 3rd day of February 2025.


John Johnston
United States Magistrate Judge